

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ACF 2006 CORP.,
Plaintiff,
vs.

SIMONA A. FARRISE, ET AL.,
Defendants.

CASE NO. 18-cv-00029-YGR

**RIGHT TO ATTACH ORDER AND ORDER FOR
ISSUANCE OF WRIT OF ATTACHMENT**

Re: Dkt. No. 70

Having carefully considered plaintiff ACF 2006 Corp.'s ("ACF") Motion for Right to Attach Order and Order for Issuance of Writ of Attachment with respect to the Union Bank Account ending in "6694," entitled "Jeff Riebel, Errol J. Gordon, Attorney Client Trust Account for Kimberley Farrise and Simona A. Farrise" (the "Union Bank Account") (Dkt. No. 70 ("Motion")), and oral arguments held on May 15, 2018, and good cause appearing therefor, it is hereby **ORDERED** that:

1. ACF's motion is **GRANTED**.¹
2. The Court finds defendants Simona A. Farrise and Kimberley Farrise (the "Farrise defendants") are natural persons.
3. The claim upon which the application is based is one upon which an attachment may be issued. ACF has established the probable validity of the claim upon which attachment is based. The attachment is not sought for a purpose other than the

¹ In connection with its motion, ACF filed an administrative motion to file under seal portions of a screen shot photograph of a monthly statement for the Union Bank Account. (Dkt. No. 76.) In response to an order by the Court directing further submission in support of the motion to seal, ACF filed a corrected motion. (Dkt. No. 80.) The Court finds ACF's sealing request is sufficiently justified under the applicable "good cause" standard. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179–80 (9th Cir. 2006). Accordingly, the Court **GRANTS** the motion to seal the designated portions of the document in question solely for purposes of resolving the instant motion.

1 recovery on the claim upon which attachment is based. The amount to be secured by
2 the attachment is greater than zero.

3 4. The Farrise defendants have failed to prove that the property described in ACF's
4 application is exempt from attachment.²

5 5. ACF has filed an undertaking in the amount of \$10,000. (Dkt. No. 12.)

6 6. ACF has a right to attach property of the Farrise defendants in the amount of
7 \$1,627,883.12.

8 7. Accordingly, the Clerk of the Court shall issue forthwith the Writ of Attachment
9 attached hereto as Exhibit 1, for the property of the Farrise defendants that is subject
10 to attachment under California Code of Civil Procedure section 487.010 described as
11 follows: Union Bank account ending in "6694," which is titled as "Jeff Riebel, Errol
12 J. Gordon, Attorney Client Trust Account for Kimberley Farrise and Simona A.
13 Farrise."

14 8. Upon issuance of this Order and Writ of Attachment, ACF's attorneys shall provide
15 forthwith written instructions to the levying officer to whom the Writ of Attachment
16 is directed, which shall contain the information needed or requested by the levying
17 officer to comply with the provisions of Title 6.5 (commencing with Section
18 481.010) of Part 2 of the California Code of Civil Procedure. (*See* Cal. Civ. Proc.
19 Code §§ 488.020, 488.030, 488.040.)

20 9. As stated on the record at the May 15, 2018 hearing, this Order is in no way meant to
21 interfere with or usurp the Alameda County Superior Court's (the "State Court")
22 ability to adjudicate any and all issues pertaining to the characterization and/or
23 distribution of the Farrise defendants' community estate in the ongoing divorce
24 proceedings before the State Court, in the case entitled *In re Marriage of: Simona*

25
26 ² Only defendant Kimberley Farrise has opposed ACF's motion. Defendant Simona A.
27 Farrise and ACF stipulated to entry of an order granting ACF's initial motion for right to attach
28 order and order for issuance of writ of attachment (Dkt. No. 16) as to the Union Bank Account
(Dkt. No. 65). This Court denied the stipulation without prejudice pending briefing by the parties
regarding ACF's ability to attach a trust account in the name of a person other than the Farrise
defendants. (Dkt. No. 69.)


1 *Farrise v. Kimberley Farrise* (Case No. AF14744271) (the “Divorce Proceedings”).

2 To that end, the limitation provided by California Code of Civil Procedure section
3 488.455(c) shall not apply to orders of the State Court in the Divorce Proceedings.

4 This Order terminates Docket Numbers 70, 76, and 80.³

5 **IT IS SO ORDERED.**

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7 Dated: June 6, 2018

8 
9 YVONNE GONZALEZ ROGERS
10 UNITED STATES DISTRICT COURT JUDGE
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27 ³ The Court has reviewed the parties’ Case Management Conference Statement. (Dkt. No.
28 90.) Given the update provided therein, no further Case Management Conference is required at
this juncture. The Court hereby **VACATES** the Case Management Conference currently set for
Monday, June 11, 2018.

EXHIBIT 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Jennifer C. Hayes, CA State Bar No. 197252 Finestone Hayes LLP, 456 Montgomery St., 20th Fl. San Francisco, CA 94104 TELEPHONE NO.: 415-616-0466 E-MAIL ADDRESS (Optional): jhayes@fhlawllp.co FAX NO. (Optional): 415-398-2820 ATTORNEY FOR (Name): ACF 2006 Corp.	FOR COURT USE ONLY
United States District Court, Northern District of California STREET ADDRESS: U.S. District Court, Northern District of California MAILING ADDRESS: 1301 Clay Street CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME: U.S. District Court, Northern District of California	
PLAINTIFF: ACF 2006 Corp. DEFENDANT: Farrise et al.	
WRIT OF ATTACHMENT <input checked="" type="checkbox"/> AFTER HEARING <input type="checkbox"/> EX PARTE	CASE NUMBER: 4:18-cv-00029-YGR

1. TO THE SHERIFF OR ANY MARSHAL OR CONSTABLE OF THE COUNTY OF: **Los Angeles**
2. TO ANY REGISTERED PROCESS SERVER: You are only authorized to serve this writ in accord with CCP 488.080.
3. This writ is to attach property of defendant (name and last known address): **Simona A. Farrise, 2150 Allston Way Suite 460, Berkeley, CA 94704; Kimberley Farrise, 5520 Owensmouth Ave Apt 217 Woodland Hills, CA 91367**
 and the attachment is to secure: \$ **1,627,883.12**
4. Name and address of plaintiff: **ACF 2006 Corp.**
One Vantage Way, Suite C-200, Nashville, Tennessee
5. YOU ARE DIRECTED TO ATTACH the following property or so much thereof as is clearly sufficient to satisfy the amount to be secured by the attachment (describe property and state its location; itemize by letter):
Union Bank account ending in "6694", which is titled as "Jeff Riebel, Errol J. Gordon, Attorney Client Trust Account for Kimberley Farrise and Simona A. Farrise."

☒ This information is on an attached sheet.

6. ☐ An interest in the real property described in item 5 stands upon the records of the county, in the name of the following person other than the defendant:
 a. Name:
 b. Mailing address, if known, as shown by the records of the office of the county tax assessor (specify):
7. ☐ The real property on which the
☐ crops described in item 5 ___ are growing
☐ timber described in item 5 ___ to be cut is standing stands upon the records of the county in the name of
 a. Name:
 b. Address:

(SEAL)

Date:

Clerk, by _____, Deputy